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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Fabrice Madigou

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EXAMINER

JONES, MARCUS D

ART UNIT

PAPER NUMBER

3714

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/583,651	Applicant(s) MADIGOU ET AL.	
	Examiner Marcus D. Jones	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment filed 23 November 2009 in response to the previous Non-Final Office Action (22 May 2009) is acknowledged and has been entered.

Claims 12-24 are currently pending.

Claims 1-11 are cancelled.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 13-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

3. Regarding claims 13 and 20, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

4. Claims 14-19 and 21-24 all depend on previously cancelled claims. It is unclear which independent claims they are intended to depend on. As best understood by the Examiner, claims 14-19 and 21-24 are intended to depend on the current independent claims, and will be treated as such for the remainder of this Office Action. Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Ilan G et al. (WO 2001/15059).

In reference to claim 12, Ilan G discloses: An electronic game system, that comprises: an electronic game platform comprising a central unit, a memory, a dynamic display device capable of being placed in a essentially horizontal position, at least one input device for a user , and a means of transmitting information by wireless transmission (see Figure 1, pg 8, *System 100 includes a screen, a receiver, a host computer (a host computer inherently includes a central unit and memory) and a plurality of object devices. Computer is connected to receiver and to screen. Object devices are placed over the screen*), and a plurality of pawns that can be moved on the display device (see Figure 2), each pawn including a means of receiving information by wireless transmission capable of communicating with said transmission means (pg 8, *respective signal is wirelessly transmitted*), a control means sensitive to the received information, and a means of animating the pawns controlled by the control means (pg 13, *Processor 252 provides commands to motors to move the device. The movement commands can be provided from the controlling host computer, producing command patterns at the last device location*), wherein each pawn has its own address for

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reception of said information (pg 12, *object identified by its respective identification code*), wherein each pawn is powered by a rechargeable battery, and the game platform and the pawns comprise positions for recharging the pawns' batteries (pg 5, *The device can further include a rechargeable power unit, connected to the digital logic unit and to the at least one of the optical detectors. The optical detect converts detected light into electricity, thereby charging the rechargeable power unit*).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. **Claims 13-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ilan G et al. (WO 2001/15059), and further in view of Brown (US 6,332,616).**

In reference to claims 13 and 20, Ilan G discloses: An electronic game system, that comprises: an electronic game platform comprising a central unit, a memory, a

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dynamic display device capable of being placed in a essentially horizontal position, at least one input device for a user , and a means of transmitting information by wireless transmission (see Figure 1, pg 8, *System 100 includes a screen, a receiver, a host computer (a host computer inherently includes a central unit and memory) and a plurality of object devices. Computer is connected to receiver and to screen. Object devices are placed over the screen*), and a plurality of pawns that can be moved on the display device (see Figure 2), each pawn including a means of receiving information by wireless transmission capable of communicating with said transmission means (pg 8, *respective signal is wirelessly transmitted*), a control means sensitive to the received information, and a means of animating the pawns controlled by the control means (pg 13, *Processor 252 provides commands to motors to move the device. The movement commands can be provided from the controlling host computer, producing command patterns at the last device location*), wherein each pawn has its own address for reception of said information (pg 12, *object identified by its respective identification code*). Ilan G does not specifically disclose actuation means so as to have a shape that varies according to said control information. Brown teaches that each knight is provided with a lance held loosely at the free end of his right arm, which is pivotally attached to the torso at the shoulder so that the lance can move under gravity from the inactive position to an active position (col 2, ln 25-30). While Brown does not specifically disclose that the animation is according to said control information, the Examiner submits that it would have been obvious to a person having ordinary skill in the art at the time of the invention to automatically animate the game piece since it has been held

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that broadly providing an automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to have modified Ilan G in view of Brown to provide realistic animation to a game piece on a game board.

In reference to claims 14 and 21, Ilan G and Brown disclose the invention substantially as claimed. Ilan G further discloses detecting the position and orientation of physical object on a display screen (pg 2). Brown further teaches that there are three outcomes when a player's lance touches one of three segments. The first outcome is when both players' lances touch each shield, resulting in a tie. The second outcome is when one player's lance touches the other player and the second player's lance misses the first player, resulting in a win. The third outcome is when the first player unseats the second player from the charger (col 3, ln 35-60). The Examiner submits that it would be essential to determine the orientation and position of the moving parts in order to determine the winner of the competition between the two players.

In reference to claims 15, 16 and 22, Ilan G and Brown disclose the invention substantially as claimed. Ilan G further discloses light sources 208A and B, a plurality of motors and a speaker connected to processor 252. Processor provides commands to the motors (pg 13 and Figure 8).

In reference to claims 17 and 18, Ilan G and Brown disclose the invention substantially as claimed. Ilan G further discloses sound detection unit (pg 5) and a light detector 202A and B (pg 12 and Figure 7A and 7B).

In reference to claims 19 and 23, Ilan G and Brown disclose the invention substantially as claimed. Ilan G further discloses that device can further includes a rechargeable power unit, connected to the digital logic unit and to the at least on of the optical detectors. The optical detector converts detected light into electricity, thereby charging the rechargeable power unit (pg 5).

In reference to claim 24, Ilan G and Brown disclose the invention substantially as claimed. Ilan G further discloses that the movement commands can be provided from the controlling host computer, producing respective commands patterns at the location where the device was last detected (pg 13).

Response to Arguments

6. Applicant's arguments have been fully considered but they are not persuasive.
7. With respect to claim 12, the Applicant asserts that Ilan G fails to disclose a variable shape for the game element.
8. The Examiner respectfully disagrees.
9. As claimed, claim 12 fails to include claim language that is specific to varying the shape of the pawn. Claim 12 only discusses animating the pawn, moving the pawn around the game board as disclosed by Ilan G meets this limitation. Subsequently, the Final rejection of claim 12 stands. Newly added claims 13 and 20 discuss varying the

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shape of the pawn. Brown is cited in the above rejection to meet such claim limitations. As illustrated in Figure 4 of Brown, the lance 28 is lowered, thus changing the shape of the pawn.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus D. Jones whose telephone number is (571)270-3773. The examiner can normally be reached on M-F 9-5 EST, Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John M. Hotaling can be reached on 571-272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marcus D. Jones/
Examiner, Art Unit 3714

/John M Hotaling II/
Primary Examiner, Art Unit 3714